

Court of Appeals, State of Michigan

ORDER

Parnell Lee v Detroit Edison

Docket No. 258003

LC No. 03-306125-NI

Kurtis T. Wilder
Presiding Judge

Helene N. White

Christopher M. Murray
Judges

The Court considers the application and orders, pursuant to MCR 7.205(D)(2), that the September 7, 2004, order of the Wayne County Circuit Court as to whether a claim file is discoverable hereby is VACATED. Counsel for TCI asserted that the claim file contains privileged documents regarding the instant suit that were prepared after the litigation commenced. Litigation files prepared by insurers may be protected under MCR 2.302(B)(3)(a). *Koster v June's Trucking*, 244 Mich App 162, 171; 625 NW2d 82, (2000). Accordingly, the court reviewing the claim file must conduct an in camera inspection of the documents to determine whether they are protected from discovery by the work product doctrine. If they are protected, the party seeking admission has the burden to show "substantial need" and "undue hardship." If that burden is met, any order must protect against disclosure of the thought processes of TCI's representatives. See *id.* at 172. The Wayne County Circuit Court is directed to enter an order consistent with the above. The case is REMANDED to the circuit court for further proceedings consistent with this order.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 25 2005

Date

Sandra Schultz Mengel
Chief Clerk